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9 UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA
10

11 Norman Keith Flowers,
12 Petitioner,
13 v.
14 State of Nevada,
15 Respondents.

Case No. 2:16-cv-01304-APG-GWF
**Unopposed Motion for Extension
of Time to File First Amended
Petition**
(First Request)

16 Petitioner Norman Flowers, by and through counsel, C.B. Kirschner,
17 Assistant Federal Public Defender, moves this Court for an extension of time of
18 ninety-one (91)¹ days from August 3, 2020, to and including November 2, 2020, to
19 file the First Amended Petition.
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24 ¹ A ninety (90) day extension would result in the petition being due on a
25 Sunday.

1 **POINTS AND AUTHORITIES**

2 1. On or about January 13, 2009, Norman Flowers was sentenced to life
3 without the possibility of parole, following his conviction for first degree murder. On
4 December 7, 2016, he mailed a Petition for Writ of Habeas Corpus Pursuant to 28
5 U.S.C. § 2254 by a Person in State Custody (Not Sentenced to Death). ECF No. 9.
6 Mr. Flowers remains incarcerated at High Desert State Prison.

7 2. On December 16, 2016, this Court appointed the Office of the Federal
8 Public Defender as counsel for Mr. Flowers. ECF No. 10. On June 16, 2017, this
9 Court granted Flowers a stay because of on-going state court proceedings. ECF No.
10 21. In state court, the Nevada Supreme Court reinstated Mr. Flowers's direct
11 appeal rights. After those proceedings concluded, counsel for Flowers moved to lift
12 the stay and reopen the case (ECF No. 24), a request this Court granted on May 4,
13 2020. ECF No. 26. This Court further directed Flowers to file an Amended Petition.

14 3. The Amended Petition is currently due August 3, 2020. Mr. Flowers
15 now requests an additional ninety-one (91) days, up to and including November 2,
16 2020, to file the Petition. This is the first request for an extension of time.

17 4. The additional period of time is necessary in order to effectively
18 represent Mr. Flowers. This motion is filed in the interests of justice and not for the
19 purposes of unnecessary delay.

20 5. An extension of time to file the petition is necessary for several
21 reasons. First, counsel's schedule has been particularly busy. On June 1, 2020,
22 counsel filed an Opening Brief with the Nevada Supreme Court in *Taukitoku v.*
23 *Filson*, case no. 80124; on June 8, 2020, counsel filed an Opening Brief with the
24 Ninth Circuit in *Alvarez v. Neven*, in case no. 18-15516; on June 11, 2020, counsel
25 argued an appeal before the Ninth Circuit in *Zimmerman v. Baca*, case no. 18-
16886; on June 16, 2020, counsel filed a Reply Brief with the Ninth Circuit in

1 *Tiffany v. LeGrand*, case no. 19-15796; on June 23, 2020, counsel filed a Reply Brief
2 with the Nevada Supreme Court in *Rangel v. Baker*, case no. 79711; on June 29,
3 2020, counsel filed a Reply Brief with the Nevada Supreme Court in *Melendez v.*
4 *Baker*, case no. 80192; on July 6, 2020, counsel filed a Response to Motion to
5 Intervene in *Lyons v. Williams*, case no. C-13-289278-1; on July 15, 2020, counsel
6 filed a Reply to Answer to First Amended Petition in *Chao v. Baker*, case no. 2:14-
7 cv-02039-GMN-EJY; and on July 27, 2020, counsel filed a Petition for Writ of
8 Certiorari with the United States Supreme Court in *Page v. Baker*.

9 6. Counsel also has a numerous upcoming filing deadlines in the next two
10 months as well as two, federal evidentiary hearings scheduled on September 9, 2020
11 (*Young v. Williams*, case no. 2:12-cv-00524-RFB-NJK), and September 23, 2020
12 (*McClain v. LeGrand*, case no. 3:14-cv-00269-MMD-CLB), both of which require
13 extensive preparation.

14 7. Additionally, the Federal Public Defender's Office is primarily
15 operating from a remote, telework system in light of the COVID-19 pandemic.
16 Overall the transition has been smooth, but there have been ongoing network
17 interruptions and unavoidable delays. The Ninth Circuit has recognized the current
18 pandemic "has disrupted services of all kinds" and is a valid basis for extending
19 deadlines.² The pandemic has also created unexpected and urgent work as we
20 attempt to secure the release of some of our most vulnerable clients. Additional time
21 is necessary in light of these extraordinary circumstances.

22 8. On July 31, 2020, Chief Deputy Attorney General Heather Procter was
23 contacted via email and stated that she did not object to the extension, but the lack
24 of objection should not be construed as a waiver of any procedural defenses, nor as a

25 ² <http://cdn.ca9.uscourts.gov/datastore/general/2020/03/16/COVID-19%20Notice.pdf>

1 concession that any amended petition will be considered timely filed, nor as a basis
2 for equitable tolling.

3 9. For the above stated reasons, Petitioner respectfully requests this
4 Court grant the request for an extension of time of ninety-one (91) days and order
5 the Amended Petition to be filed on or before November 2, 2020.

6 Dated this 3rd day of August, 2020.

7 Respectfully submitted,

8 Rene L. Valladares
Federal Public Defender

9 /s/ CB Kirschner
10 C.B. Kirschner
Assistant Federal Public Defender

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14 IT IS SO ORDERED:

15 
16 UNITED STATES DISTRICT JUDGE

17 DATED: August 4, 2020
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